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HOUSE BILL 414

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Eleanor Chavez

AN ACT

RELATING TO PROFESSIONAL AND OCCUPATIONAL LICENSING; AMENDING
THE OCCUPATIONAL THERAPY ACT TO PROVIDE FOR CRIMINAL BACKGROUND
CHECKS OF LICENSEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Occupational Therapy Act
is enacted to read:

"[NEW MATERIAL] CRIMINAL BACKGROUND CHECKS.--

A. The board may adopt rules that provide for
criminal background checks for all new licensees to include:

(1) requiring criminal history background
checks of applicants for licensure pursuant to the Occupational
Therapy Act;

(2) requiring applicants for licensure to be
fingerprinted;

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1 (3) providing for an applicant who has been
2 denied licensure to inspect or challenge the validity of the
3 background check record;

4 (4) establishing a fingerprint and background
5 check fee not to exceed seventy-five dollars (\$75.00) to be
6 paid by the applicant; and

7 (5) providing for submission of an applicant's
8 fingerprint cards to the federal bureau of investigation to
9 conduct a national criminal history background check and to the
10 department of public safety to conduct a state criminal history
11 check.

12 B. Arrest record information received from the
13 department of public safety and the federal bureau of
14 investigation shall be privileged and shall not be disclosed to
15 persons not directly involved in the decision affecting the
16 applicant.

17 C. Electronic live fingerprint scans may be used
18 when conducting criminal history background checks."

19 Section 2. Section 61-12A-11 NMSA 1978 (being Laws 1996,
20 Chapter 55, Section 11, as amended) is amended to read:

21 "61-12A-11. REQUIREMENTS FOR LICENSURE.--

22 A. An applicant applying for a license as an
23 occupational therapist or occupational therapy assistant shall
24 file a written application provided by the board, accompanied
25 by the required fees and documentation, and demonstrating to

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1 the satisfaction of the board that the applicant has:

2 (1) successfully completed the academic
3 requirements of an educational program in occupational therapy
4 that is either:

5 (a) accredited by the American
6 occupational therapy association's accreditation council for
7 occupational therapy education; or

8 (b) in the case of a foreign educational
9 program, accepted by the national board for certification in
10 occupational therapy when the therapist applies to take that
11 board's examination;

12 (2) successfully completed a period of
13 supervised fieldwork experience at a recognized educational
14 institution or a training program approved by the educational
15 institution where the occupational therapist or the
16 occupational therapy assistant has met the academic
17 requirements of Paragraph (1) of this subsection; provided
18 that:

19 (a) an occupational therapist shall
20 complete a minimum of twenty-four weeks of supervised fieldwork
21 experience or satisfy any generally recognized past standards
22 that identified minimum fieldwork requirements at the time of
23 graduation; and

24 (b) an occupational therapy assistant
25 shall complete a minimum of sixteen weeks of supervised

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1 fieldwork experience or satisfy any generally recognized past
2 standards that identified minimum fieldwork requirements at the
3 time of graduation;

4 (3) [~~has~~] passed an examination prescribed by
5 the national board for certification in occupational therapy or
6 the board; and

7 (4) [~~has~~] no record of unprofessional conduct
8 or incompetence.

9 B. In the case of an occupational therapy assistant
10 or a person practicing on a provisional permit, the applicant
11 shall file with the board a signed, current statement of
12 supervision by the occupational therapist who will be the
13 responsible supervisor.

14 C. The board shall verify, as necessary,
15 information contained on the completed application and any
16 supporting documentation required to obtain a license,
17 including a criminal background check."

18 Section 3. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2009.